

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE WELLBUTRIN SR/ZYBAN ANTITRUST :
LITIGATION :

Master File No. 02-CV-4398

THIS DOCUMENT RELATES TO :
ALL ACTIONS :

ORDER

AND NOW this 25th day of July, 2003, the parties having reported that they have conferred concerning certain pretrial matters, and upon consideration of their stipulated proposed case management order, it is hereby **ORDERED** that:

1. The proposed case management order is **adopted in full**.
2. The **status conference** scheduled for **July 29, 2003** at 10:00 a.m. is **cancelled**.
3. Consistent with the stipulated proposed case management order, discovery in

Stage 2 of Phase 1 merits discovery shall proceed as follows:

Activity

Deadline

Plaintiffs to supplement Plaintiffs' Responses
and Objections to Defendants' First Request for
Production of Documents.

August 15, 2003

Parties to serve any interrogatories on
1) whether Patent Litigations are "objectively baseless,"
and 2) whether GSK caused a delay in sustained release
bupropion hydrochloride generic entry.

August 15, 2003

Parties to answer any interrogatories on
1) whether Patent Litigations are "objectively baseless,"
and 2) whether GSK caused a delay in sustained release
bupropion hydrochloride generic entry.

30 days after service with
supplementation as required by
Fed. R. Civ. P. 26(e)(2)

Activity (cont.)

Deadline (cont.)

Parties to complete production of materials responsive to document requests served during Stage 1 of Phase 1 Merits discovery prior to July 28, 2003.

October 10, 2003

Parties to complete fact depositions, if any, on
1) whether Patent Litigations are “objectively baseless,”
and 2) whether GSK caused a delay in sustained release
bupropion hydrochloride generic entry.¹

November 21, 2003

Parties to file any motions for summary judgment on
1) whether Patent Litigations are “objectively baseless,”
and 2) whether GSK caused a delay in sustained release
bupropion hydrochloride generic entry.

December 1, 2003

Parties to file any opposition to summary
judgment motions.

January 9, 2004

Parties to file any reply briefs supporting
motions for summary judgment.

January 30, 2004

3. On February 3, 2004 at 10:00 a.m. in Courtroom 3-H, I will hold a discovery hearing to discuss the status of this action. The parties are to be prepared to discuss Phase 2 discovery, the class discovery. Plaintiffs’ Lead Counsel and Counsel for the Defendants are to be present.

¹ If Plaintiffs depose any current GSK employee during this period on the topics of 1) whether Patent Litigations are “objectively baseless” and 2) whether GSK caused a delay in sustained release bupropion hydrochloride generic entry, this will be without prejudice to depose this same witness at a later date on other merits or class certification issues. GSK does not intend to call any Class Plaintiffs for deposition during this stage of discovery. If GSK should elect to do so, Class Plaintiffs may determine whether to limit the subject of the deposition to a) whether Patent Litigations are “objectively baseless” and whether GSK caused a delay in sustained release bupropion hydrochloride generic entry or b) whether to require that such Class Plaintiff be deposed about all topics relevant to the litigation and thus not deposed again at a later date.

4. Counsel are commended for their efforts, to date, in working together to move this case forward. I will remain available, throughout the discovery process, to address any discovery concerns, at the request of the parties. In the event that counsel cannot, in good faith, resolve a discovery dispute without court intervention, they are directed to contact chambers through a telephone call, or letter facsimile, to request the scheduling of a conference. A telephone or in-person conference to discuss and resolve the dispute will be scheduled in a prompt fashion. The filing of formal discovery motions is discouraged.

BY THE COURT

M. FAITH ANGELL
UNITED STATES MAGISTRATE JUDGE

ORDER FAX FORM

If you want your Order faxed,
please provide names and fax numbers below.
Thank you.

CASE NO. 02-4398

TODAY'S DATE: July 25, 2003

LAW CLERK'S INITIALS: JJK

NAME

FAX NUMBER (Area Code & Number)

- | | | |
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